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10 Attorneys for Plaintiff
11 AMERIS BANK d/b/a BALBOA CAPITAL CORPORATION

12
13 THE UNITED STATES DISTRICT COURT
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15
16 AMERIS BANK, a Georgia state-
17 chartered banking corporation, doing
business as BALBOA CAPITAL
CORPORATION,

18 Plaintiff,

19 vs.

20 TIMBER LOGGING COMPANY LLC,
21 an Idaho limited liability company;
JACOB HATFIELD, an individual,

22 Defendants.
23
24
25
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27
28

Case No.:

**PLAINTIFF AMERIS BANK D/B/A/
BALBOA CAPITAL
CORPORATION'S COMPLAINT
FOR:**

1. **BREACH OF EQUIPMENT
FINANCING AGREEMENT NO.
1**
2. **BREACH OF PERSONAL
GUARANTY NO. 1**
3. **BREACH OF EQUIPMENT
FINANCING AGREEMENT NO.
2**
4. **BREACH OF PERSONAL
GUARANTY NO. 2**

1 Plaintiff Ameris Bank, a Georgia state-chartered banking corporation doing
2 business as Balboa Capital Corporation, (“Balboa” or “Plaintiff”), alleges as
3 follows:

4 **PARTIES AND JURISDICTION**

5 1. Plaintiff Ameris Bank d/b/a Balboa Capital Corporation (“Balboa” or
6 “Plaintiff”) is, and at all times relevant to this action was, a Georgia state-chartered
7 banking corporation with Balboa Capital Corporation as one of its divisions, which
8 division has its principal place of business in the State of California, County of
9 Orange.

10 2. Defendant Timber Logging Company LLC (“Timber Logging
11 Company”) is, and at all times relevant to this action was, an Idaho limited liability
12 company with its principal place of business in the County of Bonner, State of
13 Idaho.

14 3. Defendant Jacob Hatfield (“Hatfield”), an individual, is and at all
15 times relevant to this action was, a resident of the County of Bonner, State of Idaho
16 and was an officer, director, shareholder, agent and/or owner of Defendant Timber
17 Logging Company.

18 4. Plaintiff is informed and believes and thereon alleges that each
19 Defendant, directly or indirectly, or through agents or other persons, was engaged
20 with some or all of the other Defendants in a joint enterprise for profit, and bore
21 such other relationships to some or all of the other Defendants so as to be liable for
22 their conduct with respect to the matters alleged below. Plaintiff is informed and
23 believes and thereon alleges that each Defendant acted pursuant to and within the
24 scope of the relationships alleged above, that each Defendant knew or should have
25 known about the foregoing, and that each Defendant authorized, ratified, adopted,
26 approved, controlled, and aided and abetted the conduct of all other Defendants.

27 5. The obligations sued upon herein are commercial in nature and the
28 Complaint herein is not subject to the provisions of California Civil Code Sections

1 1801, *et seq.* (Unruh Retail Installment Sales Act) and/or California Civil Code
2 Sections 2981, *et seq.* (Rees-Levering Motor Vehicle Sales and Finance Act).

3 6. Pursuant to the Equipment Financing Agreement and Guaranty
4 described herein below, defendant Timber Logging Company and defendant
5 Hatfield agreed that the Equipment Financing Agreement would be governed by the
6 laws of the State of California. In addition, the Equipment Financing Agreement
7 provides, in pertinent part, as follows:

8 **25. GENERAL.** This agreement shall be governed by the
9 law of the state of California. Debtor submits to the
10 jurisdiction of California and agrees that the California
11 state courts of orange county and/or the United States
12 District Court for the central district of California, Santa
13 Ana division, shall have exclusive jurisdiction over any
14 action or proceeding to enforce this agreement or any
15 action or proceeding arising out of this agreement.

16 7. **Jurisdiction.** This Court has jurisdiction over the case pursuant to 28
17 U.S.C. §1332(a).

18 8. **Venue.** This case is properly venued in this judicial district pursuant to
19 28 U.S.C. §1391(b)(2) and in the Southern Division pursuant to 28 U.S.C.
20 §84(c)(3).

21 **FIRST CAUSE OF ACTION**

22 **(Breach of Equipment Financing Agreement No. 1)**

23 **(Against Timber Logging Company)**

24 9. Balboa alleges and incorporates by reference each and every allegation
25 contained above, inclusive, as though each were fully set forth here.

26 10. Prior to July 2022, Balboa is informed and believes that Timber
27 Logging Company initiated and engaged with Timber Logging Company LLC
28 located at 1000 Carr Creek Road Sandpoint, ID 83864 (“Equipment Vendor No.
1”), in order to coordinate the acquisition and financing of certain equipment
(hereinafter referred to as the “Collateral No. 1”) for its business. The Equipment

1 Vendor No. 1 worked with Timber Logging Company in the selection of the
2 Collateral No. 1 and in coordinating its delivery.

3 11. Thereafter, Balboa is informed and believes, and therefore alleges, that
4 the Equipment Vendor No 1. initiated and coordinated submission of Defendants'
5 electronic credit application to Balboa and other financial institutions. Upon
6 review, Timber Logging Company concluded that Balboa offered agreeable terms
7 to finance the Collateral No. 1 commensurate with its requirements. Thereafter, the
8 Equipment Vendor No. 1 accumulated and submitted to Balboa the requisite
9 signatories, documentation and financial information from the Defendants to
10 finance the Collateral No. 1 being supplied by the Equipment Vendor.

11 12. On or about July 26, 2022, Balboa executed and delivered to Timber
12 Logging Company a certain written Equipment Financing Agreement No. 406296-
13 000 (the "EFA No. 1"), under the terms of which Balboa loaned to Timber Logging
14 Company the principal sum of seventy-six thousand two hundred and eight dollars
15 and seventy-one cents (\$76,208.71) in order to finance the Collateral No. 1 for its
16 business. The EFA No. 1 required Timber Logging Company to make sixty (60)
17 monthly payments of \$1,685.61, payable on the 24th day of each month beginning
18 August 24, 2022. A true and correct copy of the EFA No. 1 is attached as **Exhibit**
19 **A** and is incorporated here by reference.

20 13. The last payment received by Balboa was credited toward the monthly
21 payment due for August 24, 2023. Therefore, on or about September 24, 2023,
22 Timber Logging Company breached the EFA No. 1 by failing to make the monthly
23 payment due on that date. Defendant Timber Logging Company's failure to make
24 timely payments is a default under the terms of the EFA No. 1.

25 14. In accordance with the EFA No. 1, and as a proximate result of Timber
26 Logging Company' default thereunder, Balboa declared the entire balance of the
27 payments under the EFA No. 1 to be immediately due and payable to Balboa. In
28 addition, pursuant to the EFA No. 1, Balboa is entitled to recover all accelerated

1 payments due under the EFA No. 1. Therefore, there became due the sum of
2 \$79,223.67. These amounts are exclusive of interest, attorneys' fees and costs, no
3 portion of which sum has been paid by Timber Logging Company.

4 15. Balboa has performed all of the terms, conditions, and covenants
5 required to be performed by it under the terms of the EFA No. 1, except as excused
6 or prevented by the conduct of Timber Logging Company.

7 16. In addition, the terms of the EFA No. 1 provide that Timber Logging
8 Company is liable to Balboa for late charges on all payments not made in a timely
9 manner. As of the date of the filing of Balboa's Complaint, late charges in the sum
10 of \$303.41 are now due and owing.

11 17. As a proximate result of Timber Logging Company's breach of the
12 EFA No. 1, Balboa has been damaged in the total sum of \$81,212.70, plus
13 prejudgment interest from September 24, 2023, until the entry of judgment herein.

14 18. Further, under the terms of the EFA No. 1, Timber Logging Company
15 promised to pay all costs, including reasonable attorneys' fees, incurred by Balboa
16 in the enforcement of the EFA No. 1. Therefore, Balboa requests the Court award
17 Balboa its reasonable attorneys' fees and costs as against Timber Logging
18 Company.

19 19. The EFA No. 1 also provides Balboa the remedy of possession of the
20 Collateral No. 1 and to obtain an order that Balboa may, in accordance with
21 applicable state law, sell the remaining Collateral No. 1 and apply the net proceeds
22 from the sale to the remaining loan balance. Alternatively, if possession cannot be
23 had, Balboa is entitled to recover the value of the Collateral No. 1.

24 **SECOND CAUSE OF ACTION**

25 **(Breach of Guaranty No. 1)**

26 **(Against Hatfield)**

27 20. Balboa alleges and incorporates by reference each and every allegation
28 contained above, inclusive, as though each were fully set forth here.

1 21. Concurrent with the execution of the EFA No. 1, and in order to
2 induce Balboa to enter into the EFA No. 1 with Timber Logging Company,
3 Hatfield guaranteed, in writing, the payment of the then existing and future
4 indebtedness due and owing to Balboa under the terms of the EFA No. 1. A true
5 and correct copy of the written Personal Guaranty signed by Hatfield (the
6 “Guaranty No. 1”) is attached as **Exhibit B** and incorporated herein by reference.

7 22. Balboa has performed all the terms, conditions, and covenants required
8 to be performed by Balboa under the terms of the Guaranty No. 1, except as
9 excused or prevented by the conduct of Hatfield.

10 23. Following a default of Timber Logging Company under the terms of
11 the EFA No. 1, Balboa demanded Hatfield make the payments required under the
12 EFA No. 1. Hatfield failed to meet the guaranty obligations and make the
13 payments required under the EFA No. 1.

14 24. Pursuant to the terms of the Guaranty No. 1, the sum of \$81,212.70,
15 plus prejudgment interest from September 24, 2023, is due and payable to Balboa
16 from Hatfield. This Complaint, in addition to previous demands, shall constitute
17 further demand upon Hatfield to pay the entire indebtedness due and owing from
18 Timber Logging Company to Balboa under the terms of the EFA No. 1.

19 25. Under the terms of the Guaranty No. 1, Hatfield promised to pay all
20 costs, including reasonable attorneys’ fees, incurred by Balboa in the enforcement
21 of the EFA No. 1 and the Guaranty No. 1. Therefore, Balboa requests the Court
22 award Balboa its reasonable attorneys’ fees and costs as against Hatfield.

23 **THIRD CAUSE OF ACTION**

24 **(Breach of Equipment Financing Agreement No. 2)**

25 **(Against Timber Logging Company)**

26 26. Balboa alleges and incorporates by reference each and every allegation
27 contained above, inclusive, as though each were fully set forth here.
28

1 27. Prior to July 2022, Balboa is informed and believes that Timber
2 Logging Company initiated and engaged with Ritchie Bros. Auctioneers (America)
3 Inc. located at 4000 Pine Lake Road Lincoln, NE 68516 (“Equipment Vendor No.
4 2”), in order to coordinate the acquisition and financing of certain equipment
5 (hereinafter referred to as the “Collateral No. 2”) for its business. The Equipment
6 Vendor No. 2 worked with Timber Logging Company in the selection of the
7 Collateral No. 2 and in coordinating its delivery.

8 28. Thereafter, Balboa is informed and believes, and therefore alleges, that
9 the Equipment Vendor No 2. initiated and coordinated submission of Defendants’
10 electronic credit application to Balboa and other financial institutions. Upon
11 review, Timber Logging Company concluded that Balboa offered agreeable terms
12 to finance the Collateral No. 2 commensurate with its requirements. Thereafter, the
13 Equipment Vendor No. 2 accumulated and submitted to Balboa the requisite
14 signatories, documentation and financial information from the Defendants to
15 finance the Collateral No. 2 being supplied by the Equipment Vendor.

16 29. On or about July 26, 2022, Balboa executed and delivered to Timber
17 Logging Company a certain written Equipment Financing Agreement No. 406296-
18 001 (the “EFA No. 2”), under the terms of which Balboa loaned to Timber Logging
19 Company the principal sum of twenty-two thousand three hundred and forty-eight
20 dollars and thirty cents (\$22,348.30) in order to finance the Collateral No. 2 for its
21 business. The EFA No. 2 required Timber Logging Company to make twenty-four
22 (24) monthly payments of \$1,057.76, payable on the 18th day of each month
23 beginning August 18, 2022. A true and correct copy of the EFA No. 2 is attached
24 as **Exhibit C** and is incorporated here by reference.

25 30. The last payment received by Balboa was credited toward the monthly
26 payment due for August 18, 2023. Therefore, on or about September 18, 2023,
27 Timber Logging Company breached the EFA No. 2 by failing to make the monthly
28

1 payment due on that date. Defendant Timber Logging Company's failure to make
2 timely payments is a default under the terms of the EFA No. 2.

3 31. In accordance with the EFA No. 2, and as a proximate result of Timber
4 Logging Company' default thereunder, Balboa declared the entire balance of the
5 payments under the EFA No. 2 to be immediately due and payable to Balboa. In
6 addition, pursuant to the EFA No. 2, Balboa is entitled to recover all accelerated
7 payments due under the EFA No. 2. Therefore, there became due the sum of
8 \$11,635.36. These amounts are exclusive of interest, attorneys' fees and costs, no
9 portion of which sum has been paid by Timber Logging Company.

10 32. Balboa has performed all of the terms, conditions, and covenants
11 required to be performed by it under the terms of the EFA No. 2, except as excused
12 or prevented by the conduct of Timber Logging Company.

13 33. In addition, the terms of the EFA No. 2 provide that Timber Logging
14 Company is liable to Balboa for late charges on all payments not made in a timely
15 manner. As of the date of the filing of Balboa's Complaint, late charges in the sum
16 of \$126.93 are now due and owing.

17 34. As a proximate result of Timber Logging Company' breach of the
18 EFA No. 2, Balboa has been damaged in the total sum of \$12,820.05, plus
19 prejudgment interest from September 18, 2023, until the entry of judgment herein.

20 35. Further, under the terms of the EFA No. 2, Timber Logging Company
21 promised to pay all costs, including reasonable attorneys' fees, incurred by Balboa
22 in the enforcement of the EFA No. 2. Therefore, Balboa requests the Court award
23 Balboa its reasonable attorneys' fees and costs as against Timber Logging
24 Company.

25 36. The EFA No. 2 also provides Balboa the remedy of possession of the
26 Collateral No. 2 and to obtain an order that Balboa may, in accordance with
27 applicable state law, sell the remaining Collateral No. 2 and apply the net proceeds
28

1 from the sale to the remaining loan balance. Alternatively, if possession cannot be
2 had, Balboa is entitled to recover the value of the Collateral No. 2.

3 **FOURTH CAUSE OF ACTION**

4 **(Breach of Guaranty No. 2)**

5 **(Against Hatfield)**

6 37. Balboa alleges and incorporates by reference each and every allegation
7 contained above, inclusive, as though each were fully set forth here.

8 38. Concurrent with the execution of the EFA No. 2, and in order to
9 induce Balboa to enter into the EFA No. 2 with Timber Logging Company,
10 Hatfield guaranteed, in writing, the payment of the then existing and future
11 indebtedness due and owing to Balboa under the terms of the EFA No. 2. A true
12 and correct copy of the written Personal Guaranty signed by Hatfield (the
13 “Guaranty No. 1”) is attached as **Exhibit D** and incorporated herein by reference.

14 39. Balboa has performed all the terms, conditions, and covenants required
15 to be performed by Balboa under the terms of the Guaranty No. 2, except as
16 excused or prevented by the conduct of Hatfield.

17 40. Following a default of Timber Logging Company under the terms of
18 the EFA No. 2, Balboa demanded Hatfield make the payments required under the
19 EFA No. 2. Hatfield failed to meet the guaranty obligations and make the
20 payments required under the EFA No. 2.

21 41. Pursuant to the terms of the Guaranty No. 2, the sum of \$12,820.05,
22 plus prejudgment interest from September 18, 2023, is due and payable to Balboa
23 from Hatfield. This Complaint, in addition to previous demands, shall constitute
24 further demand upon Hatfield to pay the entire indebtedness due and owing from
25 Timber Logging Company to Balboa under the terms of the EFA No. 2.

26 42. Under the terms of the Guaranty No. 2, Hatfield promised to pay all
27 costs, including reasonable attorneys’ fees, incurred by Balboa in the enforcement
28

1 of the EFA No. 2 and the Guaranty No. 2. Therefore, Balboa requests the Court
2 award Balboa its reasonable attorneys' fees and costs as against Hatfield.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff Balboa prays for judgment against Defendants, and
5 each of them, as follows:

6 **On the First and Second Causes of Action:**

- 7 1. The principal sum \$81,212.70;
- 8 2. Prejudgment interest from September 24, 2023 to the date of entry of
9 judgment;
- 10 3. Late charges and non-sufficient charges in an amount to be proven at
11 trial;
- 12 4. An order to recover possession of the Collateral No. 1 which is the
13 subject of the EFA No. 1, or if the Collateral No. 1 cannot be delivered, for its
14 reasonable value according to proof;
- 15 5. Reasonable attorneys' fees and costs;
- 16 6. Costs of suit as provided by law; and
- 17 7. Such other and further relief that the Court considers proper.

18 **On the Third and Fourth Causes of Action:**

- 19 1. The principal sum \$12,820.05;
- 20 2. Prejudgment interest from September 18, 2023 to the date of entry of
21 judgment;
- 22 3. Late charges and non-sufficient charges in an amount to be proven at
23 trial;
- 24 4. An order to recover possession of the Collateral No. 2 which is the
25 subject of the EFA No. 2, or if the Collateral No. 2 cannot be delivered, for its
26 reasonable value according to proof;
- 27 5. Reasonable attorneys' fees and costs;
- 28 6. Costs of suit as provided by law; and

1 7. Such other and further relief that the Court considers proper.

2
3 DATED: December 15, 2023

SALISIAN | LEE LLP

4
5 By:  _____

6 Neal S. Salisian

7 Glenn Coffman

8 Jared T. Densen

9 Attorneys for Plaintiff
10 AMERIS BANK d/b/a BALBOA CAPITAL
11 CORPORATION